

## REMARKS

The above amendments along with the following remarks are submitted to address all issues in this case and thereby to put this case in condition for allowance. New claims are provided solely to better define the subject matter of the claimed invention. No new matter is added in these amendments. After the above amendments, application claims 42-76 are pending in the application, claims 42, 46, 50, 54, 58 and 67 are independent.

Applicants have studied the Office Action mailed December 23, 2003 and have the following remarks.

### **Drawings**

The Examiner has objected to the drawings for their alleged failure to show “the method of orienting the handle in the two directions” as described in prosecution claim 38, and has requested proposed drawing corrections. As claim 38 has been cancelled by the present amendment, the Examiner’s objection has been mooted. Applicants also respectfully note that a method of orienting the handle about two axes is clearly discussed in the text of the specification and shown in the FIGS. *See*, for example, FIGS. 10 and 11 and the associated discussion on page 20. As the Examiner’s objection has been mooted by the present amendment, Applicants respectfully request that the Examiner withdraw the objection to the drawings, and that the presented drawings be accepted as showing all of the features of the pending claims.

### **35 U.S.C. § 112**

The Examiner has rejected prosecution claims 21-32 and 41 under 35 U.S. C. §112 as failing to comply with the written description requirement. As these claims have been cancelled

by the present amendment, the Examiner's objection has been mooted. Applicants believe that the specification meets the written description requirement of §112 for each of the new claims presented, and respectfully request that the Examiner withdraw the §112 rejections.

### **35 U.S.C. §§102 and 103**

The Examiner rejected all prior prosecution claims, as either anticipated by Bellini (WO01/52687A1) or as obvious over Bellini in view of Liang (5,464,080 ), Myoshi (5,908,093), or Carrigan, Jr. (5,167,306). Applicants respectfully traverse these rejections on the grounds that none of the above references separately or together, disclose all elements of the new claims 42-76 as currently pending.

#### **Bellini**

With regards to independent claims 42 and 46, Bellini does not disclose a towing position attainable by extending a grip portion from a retractable position and rotating the grip portion about two axes relative to the distal end of the arm without the user releasing his grasp, nor does it disclose a single grip portion for grasping by a user's hand when both moving the arm between said extended and retracted positions and when rotating the towing handle about the at least two pivot axes relative to the arm as discussed in claim 54.

Bellini discloses a handle-shaped body, which is defined by two hold portions (references 23 and 24) for grasping by a user. *See* Page 4, lines 11-20. Bellini describes a first and second work position. In the second work position, the handle-shaped body is folded inside the supporting structure and the device (handle and arm combination) can be lifted by the combination of hold portion 23 and transverse member 19. *See* Page 5, lines 32-35. In the first

work position, the grip portion has been rotated 180° to extend outside of and provide additional length to the supporting structure. The user is clearly intended to grasp hold portion 24 (not hold portion 23 which was used to lift the handle) in the first work position. *See* Page 5, lines 14-25.

Neither of the described first and second work positions of Bellini provide the ability to grasp the towing handle once without releasing such a grasp to allow moving a towing handle into a towing position through extension and rotation about two axes, nor a towing handle having a single grip portion for grasping with a user's hand. Bellini clearly has two hold portions 23 and 24 one of which is used for each of the above operations.

The above discussion is also relevant with regards to Claim 65. Contrary to the position taken in the outstanding Office Action, Bellini does not suggest retracting the arms while leaving the handle extending from the bag. Instead, Bellini is quite clear in teaching the advantage of collapsing the handle-shaped body to rest between the tabs and rods before retracting the rods therefore requiring the use of two different grip locations (hold portions) one of which is suitable for extending the rods while the other is suitable for using when towing.

With regards to claim 50 Bellini does not show nor describe in any way a towing position in which the length of the grip portion extends in a generally horizontal plane that is spaced vertically above the distal end of the arm. Instead, the length of the grip portion is quite clearly extended beyond and not vertically above the distal arm as shown in Figure 1 and discussed on page 5 of Bellini. Further, neither of the hold portions of Bellini is horizontal in this arrangement. In FIG. 11 of the instant case, the grip portion of an embodiment of the present invention is in a position for towing wherein the length of the grip portion extends in a generally horizontal plane that is spaced vertically above the distal end of the arm. While the device of Bellini may pass through the claimed position between the storage and towing positions, there is

no mention of such an intermediary position being used for towing as contemplated by independent claim 50.

With regard to claim 58, Bellini similarly fails to teach or suggest, among other things, a locking member locking the arm in at least one of the retracted and extended positions. In particular, Bellini's locking means (reference 33 and 34) do not lock an arm in at least one of the retracted and extended positions as the locking means of Bellini only act on the handle and not on the extension and retraction of the arm.

Applicants contend that the new independent claims are therefore all allowable over Bellini. Since all other claims depend from one of these independent claims Applicants respectfully request that the Examiner withdraw the §102 rejections.

Liang, Myoshi, and Carrigan, Jr.

Liang, Myoshi, and Carrigan, Jr. are not able, alone or in combination, to provide for the missing elements of Bellini. With regards to claims 42, 46 and 54, none of the references disclose a towing position attainable by extending a grip portion from a retractable position and rotating the grip portion about two axes relative to the distal end of the arm without the user releasing his grasp, nor do they disclose a towing handle having a single grip portion for grasping by a user's hand when both moving the arm between said extended and retracted positions and when rotating said towing handle about the at least two pivot axes relative to the distal end of the arm as discussed in claim 46. Further, with regards to claims 58 and 65 none of these references provides for the rotation of the handle about at least two pivot axes relative to the distal end. Myoshi and Carrigan Jr. do not provide for any rotation at all. Liang does not provide for the necessary rotation of the grip portion relative to the distal end of the towing arm.

Regardless, of how the Liang device is labeled to provide for towing arms and grip portions, it is quite clear that in any arrangement that provides an extensible towing arm, the arrangement requires a grip portion wherein at least one (and generally both) of the rotational axes does not provide for rotation of the grip portion relative to the distal end of the towing arm. One axis of Liang appears to be, in fact, always at the proximal end of the arm and rotates the arm relative to the baggage, as opposed to allowing rotation of the grip portion relative to the arm.

With regards to claim 50, none of the cited references show, or describe in any way, a towing position in which the length of the grip portion extends in a generally horizontal plane spaced vertically above the distal end of the arm. In fact, when the baggage of the references is tilted into a towing position (or not tilted in the case of Myoshi), all three designs would seem to show positions which are exclusive of such an arrangement.

Based upon the above discussion, Applicants believe that the new claims are allowable over any combination of the cited references, and therefore respectfully request that the Examiner withdraw the § 103 rejections.

### **Conclusion**

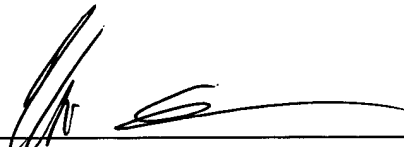
In light of the above, Applicants respectfully request entrance of the above new claims and allowance of all pending claims so that the present application can pass on to issuance.

As a final point, the following fees are included herewith. Applicants petition the Commissioner for a three month extension of time and have included the necessary extension fee herewith. Applicants are also filing this amendment and response in conjunction with a Request for Continued Examination (RCE) and include the requisite fee. There are also included

necessary fees for the inclusion of additional claims. It is believed no other fees are due in conjunction with this filing; however, the Commissioner is authorized to charge any deficiencies necessary for entering this amendment, including any claims fees and/or extension fees, and to credit any overpayment to our **Deposit Account No. 50-0975**.

If any questions remain, Applicants respectfully request a telephone call to the below-signed attorney at (314) 444-7783.

Respectfully submitted,  
Lewis, Rice & Fingersh, L.C.



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